

Article - Real Property

[\[Previous\]](#)[\[Next\]](#)

§12–109.

(a) The exclusive method of abandoning a proceeding for condemnation shall be by the plaintiff's filing, in the proceeding, a written election to abandon. A copy of the election shall be served as provided in the Maryland Rules, on each defendant who has been personally subjected to the jurisdiction of the court. Every other defendant shall be notified of the election by service of a copy or by any other means the court directs.

(b) The filing of the election has the effect of:

(1) Reducing any money judgment entered in the proceeding to a judgment for costs only, and the clerk immediately shall make the entry on his docket and judgment record to reflect this; and

(2) Annulling any inquisition returned in the proceeding, and any judgment entered in it, to the extent that the inquisition or judgment affects the title of any defendant to the property which was sought to be condemned.

(c) On filing the election to abandon, the clerk of any court where the inquisition has been recorded among the land records immediately shall make a notation on the recorded copy of the inquisition that the proceeding has been abandoned.

(d) No condemnation proceeding may be abandoned:

(1) After taking has occurred;

(2) More than 120 days after the entry of final judgment, unless an appeal is taken; or

(3) If an appeal is taken from a final judgment, more than 120 days after the receipt by the clerk of the lower court of a mandate of the Court of Appeals or the Court of Special Appeals evidencing the dismissal of the appeal, the affirmance of the judgment, the entry of judgment pursuant to the Maryland Rules, or the modification of the judgment without the award of a new trial. For the purposes of this section, an appeal stricken out pursuant to the Maryland Rules, or voluntarily abandoned, is deemed not to have been taken. However, if the appeal so stricken out or voluntarily abandoned was taken by the defendant, the plaintiff may abandon the

proceeding within 120 days after the appeal is abandoned or stricken out, provided taking has not occurred.

(e) On abandonment of a condemnation proceeding, the defendant is entitled to recover from the plaintiff the reasonable legal, appraisal, and engineering fees actually incurred by the defendant because of the condemnation proceeding. If the parties agree on the proper amount to be recovered by the defendant on account of these fees, they shall file with the clerk of the court a writing evidencing their agreement. If the parties cannot agree on the proper amount to be recovered by the defendant on account of the fees, the court, on motion of either party, shall determine the proper amount. The clerk shall enter the amount agreed on or determined by the court as a part of the costs.

[\[Previous\]](#)[\[Next\]](#)